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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/937,467	09/25/2001	Thomas Elsner	Mo-6591/LeA33,454	9554

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EXAMINER

SORKIN, DAVID L

ART UNIT

PAPER NUMBER

1723

DATE MAILED: 08/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/937,467

Applicant(s)

ELSNER ET AL.

Examiner

David L. Sorkin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 23-28 and 33-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 34-46 is/are allowed.
- 6) ☒ Claim(s) 23-28 and 30-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 September 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 14 July 2003 is: a) ☐ approved b) ☒ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Drawings***

1. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 14 July 2003 have been disapproved for the following reasons:
2. The proposed Fig. 1 fails to comply with 37 CFR 1.84(p)(1), which states that reference characters "must be oriented in the same direction to avoid having to rotate the sheet".
3. The proposed drawings fail to comply with 37 CFR 1.84(u)(1) which states: "The different views must be numbered in consecutive Arabic numerals". Therefore Figs. 1a-1h must be Figs. 2-9.
4. The proposed drawings fail to comply with 37 CFR 1.84(h)(3) which requires that sectional lines be "designated by Arabic or Roman numerals corresponding to the view number of the sectional view". Therefore "A--A" should be 2--2 or II--II, B--B should be 3--3 or III--III, etc.
5. A proper drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The correction to the drawings will not be held in abeyance.

### ***Specification***

6. The disclosure must be amended to be consistent with the drawing changes required above.
7. On page 3, line 15, the statement "The single figure" should be appropriately changed, perhaps to - - Fig. 1 - -.

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8. On page 3, line 19, the statement "not shown" should be appropriately changed, perhaps to - - 30, 33 - -.

9. On page 3, line 24, the statement "the figure" should be changed to - - Fig. 1 - -. In the same line "first housing part 2" should read - - first housing part 1 - -. Also in the same line, the word "left" seems no longer appropriate because the proposed Fig. 1 is rotated 180 degrees with respect to the original figure.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 23-28 and 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stade (US 4,534,652) in view of Higuchi et al. (US 4,474,473). Note: regarding the apparatus claims, language which relates to intended use, such as "intake" (vs. outlet) or "down-stream" (vs. upstream) has been given patentably weight to the extent that it implies structure; however, "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" *Ex parte Masham*, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987). Also, "the manner or method in which such machine is to be utilized is not germane to the issue of patentability of the machine itself". *In re Casey* 152 USPQ 235 (CCPA 1967). Regarding claims 23 and 24, Stade ('652) discloses an apparatus comprising a double shaft extruder comprising two shafts (3,4 and 3',4')

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rotating in the same direction and meshing with one another; an intake opening (15 or 17 or 18); upstream and downstream portions relative to said intake opening, wherein the shaft of the extruder are designed with a double lead in a degassing zone (2 or a portion thereof) of the extruder, and with a triple lead in a pressure build-up zone (1 or a portion thereof) of the extruder, each of said degassing zone and said pressure build-up zone being down-stream from said intake opening, and said pressure build-up zone being further down-stream than said degassing zone. Stade ('652) fails to disclose a numerical value for the L/D ratio of the extruder. Higuchi et al. (US 4,474,473) teaches "40" as an appropriate value for an extruder (see col. 8, lines 67). It is considered that it would have been obvious to one of ordinary skill in the art to have made the L/D ratio of the extruder of Stade ('652) "40", as taught by Higuchi ('473) because the extruders of both references are twins screw, co-rotating, self cleaning extruders and Higuchi ('473) explains a rationale for selecting L/D ratio (see col. 7, lines 2-7). Regarding claims 25 and 26 Higuchi ('473) further teaches that each section of an extruder may be cooled to suit the particular material being processed (see col. 6, lines 58-62). Regarding claim 27, kneading elements are disposed immediately downstream from said intake opening, said kneading elements being located between feed elements of said shafts (see Fig. 1). Regarding claim 28, the extruder comprises a plurality of degassing zones located downstream from said intake opening each of said degassing zones having an exhausting device (18, 16) connected thereto. Regarding claim 30, an agent inlet (17) is located in a region between two of said degassing zones. Regarding claim 31, an agent entraining inlet (17) is disclosed. Anything can be arbitrarily divided in to any

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number of "zones". It is considered that no further structural limitation is required by the reference to three zones in claim 31. Regarding claim 32, a backward degassing vent opening (15 or 18) is located upstream from said intake opening. Regarding claim 33, said plurality of degassing zones comprises a last degassing zone located furthest downstream from said intake opening, said extruder located furthest downstream from said intake opening, said extruder further comprising an additive admixing charging device (17) located in said last degassing zone.

***Allowable Subject Matter***

12. Claims 34-46 are allowed. While the apparatus "provided" in claim 34 is considered to be obvious under section 103, the method of operation claimed in claims 34-46 is considered allowable, because feeding plastic material to the inlet opening, in combination with the upstream and downstream requirements of claim 34, is not disclosed by the closest prior art, which is Stade (US 4,534,652).

***Response to Arguments***

13. While applicant correctly points out the intended direction of material flow of Stade ('652) is different from the intended direction of flow of the instant invention, "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" *Ex parte Masham*, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987). Also, "the manner or method in which such machine is to be utilized is not germane to the issue of patentability of the machine itself". *In re Casey* 152 USPQ 235 (CCPA 1967).

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14. While applicant argues that Fig. 1 shows the screws having a constant diameter, however, the originally filed drawings don't even show any screws. Furthermore, a constant diameter is not being claimed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David L. Sorkin whose telephone number is 703-308-1121. The examiner can normally be reached on 8:00 -5:30 Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on 703-308-0457. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



David Sorkin

August 7, 2003



CHARLES E. COOLEY  
PRIMARY EXAMINER